

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WISCONSIN**

MICHAEL FOHT,

Plaintiff,

v.

Case No. 08-CV-136

VILLAGE OF KEWASKUM,
RICHARD L. KNOEBEL, and
ROBERT A. BUDDENHAGEN,

Defendants.

ORDER

On February 8, 2008, the plaintiff, Michael Foht ("Foht"), filed his complaint in this action along with a motion for a preliminary injunction pursuant to Federal Rule of Civil Procedure 65(a). The plaintiff alleges in his complaint that Kewaskum Code Ordinance § 58-41 violates the right to free speech, due process, and equal protection under the First and Fourteenth Amendments. Section 58-41 prohibits the distribution of "any printed matter or literature on public or private property or place the same on motor vehicles." Foht alleges that pursuant to Section 58-41 he was prohibited from distributing literature regarding his religious beliefs in the Village of Kewaskum. Foht seeks a preliminary injunction enjoining the defendants from enforcing Section 58-41 or any other policy or ordinance used to restrict constitutionally-protected speech in the Village of Kewaskum.

In response to Foht's motion for a preliminary injunction, the defendants contend that the motion should be denied because Section 58-41 has not been enforced against Foht, and there was no threat of future enforcement against him

because the Village of Kewaskum intended to take immediate steps in response to this lawsuit to repeal the Ordinance. On March 18, 2008, the defendants filed an unopposed motion for leave to supplement the record with Ordinance No. 08-01 repealing Section 58-41, which was considered and passed by the Village Board on March 17, 2008. (Shambeau March 18, 2008 Aff. ¶ 3, Ex. A.) Given that Section 58-41 has been repealed, the court will deny Foht's motion for a preliminary injunction as moot.

Accordingly,

IT IS ORDERED that the defendants' unopposed motion to supplement the record (Docket #18) be and the same is hereby **GRANTED**;

IT IS FURTHER ORDERED that the plaintiff's motion for a preliminary injunction (Docket #3) be and the same is hereby **DENIED** as moot.

Dated at Milwaukee, Wisconsin, this 5th day of June, 2008.

BY THE COURT:

A handwritten signature in black ink, appearing to read "J.P. Stadtmueller", is written over a horizontal line.

J.P. Stadtmueller
U.S. District Judge